



## State Statutes and Programs Concerning Community Gardens

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Community gardens are gardens in which both edible plants, such as vegetables, and nonedible plants, like flowers, are grown by and for members of the surrounding community. Community gardens can provide readily available sources of fresh, healthy foods to communities that may lack easy access to affordable sources of fruit and vegetables. Community gardens also can serve as an important outdoor exercise and recreation opportunity for citizens, as well creating more welcoming and attractive neighborhoods.

In addition to the benefits to individual community members, community gardens can help governmental entities further various policy goals. Such interests may include: the promotion of healthy populations, thereby reducing public health costs; beautifying neighborhoods and public spaces, which may protect or increase property values; and generally advancing the health, safety, and welfare of residents by encouraging a sense of community and personal investment amongst neighborhood residents. Community gardens may also mitigate the environmental impacts of living in urban areas by providing places for water to infiltrate into the ground, providing habitat for birds and other species, filtering air and water pollution, and combating the urban "heat island" effect.

States and municipalities can encourage the development of community gardens in a variety of ways, including providing spaces for gardening on public lands, ensuring the existence of consistent funding sources, and simplifying bureaucratic requirements. Governmental provision of public lands and financial resources are particularly important to the development of lasting community gardens.

Gardens on public lands may have reduced liability when compared to community gardens on private lands, and may face fewer challenges to their continued presence than gardens on a private parcels. Governments are also in a unique position to either encourage gardening activities through the development of policies which prioritize financially or socially vulnerable populations, such as the elderly or youth groups for the disadvantaged, or by creating financial incentives to encourage gardening activities, such as the creation of a tool share program.

### California

**NEW:** The California General Assembly enacted legislation in 2013 that allows a county or city to establish an Urban Agriculture Incentive Zone (UAIZ) for the purpose of supporting local food production. Assembly Bill 551 authorizes cities and counties to enter into contracts with landowners who agree to restrict the use of their land for a minimum of five years for small-scale agricultural production. Landowners then have their land assessed at a lower rate based on the average per-acre value of irrigated cropland in California. A city or county with a UAIZ program may establish regulations for implementing and administering the program, including assessing a fee to cover the cost of the program and cancellation fees for exiting a contract early.

Cal.Gov.Code § 12804.5 allows the Secretary of the State and Consumer Services Agency" to create facilitation programs to support organizations that develop community garden.

Cal.Gov.Code § 14670 authorizes the Director of General Services to let or sublet properties owned by the state to public agencies for use as community vegetable gardens for no longer than 5 years per lease period. Lands used for community vegetable gardens may not consist of more than five acres. Only one parcel may be let for use as a community vegetable garden; "two or more contiguous parcels" owned by the state may not be let for the same use.

Cal.Str. & H.Code § 104.7(a) authorizes the Department of Transportation to let "unoccupied, unimproved property that is held for future highway purposes" to municipal governments in the area of the property for \$1 per year for lease periods of at least one year. Municipal governments must use the property "for agricultural and community garden[s]," which

must take first priority, or “for recreational purposes,” which must take second priority.

Cal. Educ. Code § 51795–51797 recognizes the value of school gardens to student education and establishes the Instructional School Gardens Program under the State Department of Education. The regulation calls for the establishment of an advisory committee and permits school districts to apply for grants of up to \$2,500 “per school site” to create school gardens. Large schools which educate more than 1,000 students may receive grants of up to \$5,000. Within six months of spending a grant, the appropriate educational body must submit a report to the Superintendent regarding how the money was allocated.

Cal. Educ. Code § 51798 authorizes a school district, charter school, or county office of education that is operating a school garden to sell produce grown in the school garden, if the school district, charter school, or county office of education complies with applicable federal, state, and local health and safety requirements for the production, processing, and distribution of the produce.

Cal.Gov.Code § 66477(f) allows municipal bodies to dedicate “land and facilities” for “recreational community gardening.”

Cal. Educ. Code § 10901 includes “recreational community gardens” under the definition of "recreation center."

## District of Columbia

DC ST § 48-402 authorizes the mayor to create the Food Production and Urban Gardens Program, which will compile a comprehensive list of vacant lots within the city for use as urban gardens through voluntary donation and negotiated agreement. The program will also encourage “the donation and cultivation of vacant lots for use in the Food Production and Urban Gardens Program.”

## Illinois

47 Ill. Adm. Code 120.110(b)(6) includes community gardens in the description of nutrition programs funded by the Federal Community Services Block Grant program (CSBG), which is administered by the state.

## Massachusetts

330 CMR 18.02 allows the Bureau of Agriculture Land Use, located within the Department of Food and Agriculture, to acquire lands from public agencies and private landowners for use as gardens for periods of no less than one year. The bureau allows groups, organizations, and individuals “who agree to form a gardening group” to use the lands for community gardens. The bureau shall provide technical and practical assistance when possible either directly or through cooperating agencies.

Groups must submit garden plans, including a planned commencement date, to the bureau. Plots within the gardens are to be designated with priority to low income elderly people and families, and to children between the ages of 7 and 16 years. The use of the garden for raising food crops receives priority over gardening for other purposes. Items grown within the gardens may not be sold, however they may be distributed free of charge. Gardeners must maintain the gardens in good condition and comply with all relevant “Federal and State laws and regulations” pertaining to chemical use. Gardeners must not abuse the land and must leave it “in at least as good condition as” when it was allotted to them.

## New York

Article 2-C of New York’s Agriculture and Markets Law creates an office of community gardens to assist in the development of community gardens on vacant public lands. To gain access to vacant public lands, community organizations must apply to public bodies for permission to use the land as a garden. The office is meant to assist in the identification of vacant public land for community gardening purposes, coordinate on behalf of interested community groups and state or local agencies to facilitate the use of vacant public lands for community gardens, and support and encourage networking among community garden programs around the state. (McKinney’s Consolidated Laws of New York Annotated, Agriculture and Markets Law, Chapter 69, Article 2-C. Community Gardens.)

The office also helps coordinate a number of grant programs supporting community gardens. The New York Department

of Agriculture and Markets offers grants through the **Office of Parks, Recreation and Historic Preservation** Environmental Protection Fund. "Municipalities or not-for-profit entities can apply for matching funds to acquire or preserve, rehabilitate or restore land for community gardening purposes." See [New York Parks Grant Program](#).

The department further provides, "[c]ommunity gardening organizations are eligible to apply for grants to fund projects that address environmental and related public health issues" though the **New York State Department of Environmental Conservation**. [Environmental Justice Community Impact Grant Program](#).

Article 5, section 96 of McKinney's General Municipal Law authorizes municipalities to hold land by contract, lease, fee, or agreement to be used for community gardening. "A municipality may encourage individuals, community organizations and groups to use vacant lands and municipal facilities for such period of time and under such conditions as the municipality may determine for use in community garden programs, including but not limited to, a condition that users possess liability insurance and accept liability for injury or damage resulting from use of the vacant public land for community gardening purposes."

The law also encourages municipalities to develop programs to ensure that available lands are identified and that local community members have "equal opportunity to use available plots." The programs may be "part of a youth or senior citizen program." The municipality may also contribute or provide at cost community garden resources such as various gardening implements, fertilizers, compost, and seeds available for purchase by community groups.

**NEW:** Enacted 2013 legislation amended the law to: allow the Office to develop a single form for interested parties to use when applying for the use of vacant public land for community gardening; assist cooperation between gardening groups and food assistance organizations and the New York Harvest For New York Kids Week program and farm-to-school and school garden programs and created a community gardens task force to identify methods for the establishment and expansion of community gardens.

## Tennessee

The Tennessee Community Gardening Act of 1977, Tennessee Code Annotated § 43-24-101 et al. allows citizens to obtain permits to use "vacant public land" to develop gardens. Citizens must submit a usage plan to the commissioner of agriculture for approval. Citizens aged 60 years and older and those living under the poverty level are given priority for gardening permits in the event of a land shortage. Private landowners may also allow the department to use their lands for developing gardens by following the same procedures as public entities. Municipalities also are authorized to develop community garden programs. The law encourages a variety of groups to use vacant lands to which they hold title for community gardens. The law was amended in 2011 by SB 609/HB 906, which allows local governments "to work with the county agricultural extension agent to identify" appropriate spaces for community gardening activities, rather than requiring the commissioner of Agriculture to identify such spaces.

**NEW:** Enacted 2013 legislation further amended the Act to allow residents of a neighborhood or community, or members of a homeowners or condominium owners association to sell vegetables, fruits, herbs, and flowers grown in such gardens.

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